

CITY COUNCIL AGENDA

DECEMBER 10, 2002

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
GEORGE SHIRAKAWA, JR.
DAVID D. CORTESE
JOHN DIQUISTO
PAT DANDO

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.ci.san-jose.ca.us/cty_clk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

10:00 a.m.- Closed Session, Room 600, City Hall

Absent – Council Members - None

1:37 p.m. - Regular Session, Council Chambers, City Hall

Absent – Council Members - None

- **Invocation (Mayor)**

Pastor Dave Sawkins of South Valley Christian Church delivered the Invocation.

- **Pledge of Allegiance**

Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**

Item 7.1 was dropped and the Orders of the Day were approved.

1 CEREMONIAL ITEMS

- 1.1** Presentation of the Gold Pinnacle Awards by the International Festival & Events Association for the San José Holiday Parade. (Parks, Recreation and Neighborhood Services)
- Mayor Gonzales, joined by Sara Hensley, Director of Parks, Recreation and Neighborhood Services, Ed Bautista, Special Events & Projects Supervisor, and his Staff, were presented Gold Pinnacle awards by Phil Purevich, Member of the Presidents Council of the International Festival and Events. The awards were for outstanding work in the industry; one for Best Sponsor Solicitation Video for Budget under \$250,000, and the second for Best Company Image Pieces Budget under \$250,000, each for the San Jose Holiday Parade. Mr. Purevich stated it was a great distinction and honor for an event to win two awards. Ed Bautista accepted the award, on behalf of the City of San José.**

2 CONSENT CALENDAR

2.1 Approval of Minutes.

None.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 26783 – Amends Chapter 2.04 of Title 2 of the San José Municipal Code to provide for City of San José departmental reorganizations and changes in functions and duties of City departments.

Ordinance No. 26783 adopted.

- (b) ORD. NO. 26786 – Amends Section 4.08.070 of Chapter 4.08 of Title 4 of the San José Municipal Code to add gender identity as a basis of discrimination which would result in a violation of Chapter 4.08 entitled *Nondiscrimination Requirements for Contracts* and amending Section 2.08.3030 of Chapter 2.08 of Title 2 to include gender identity discrimination as a matter affecting human rights and covered under the functions, powers, and duties of the Human Rights Commission.

Ordinance No. 26786 adopted.

2.3 Approval of the City Manager's travel.

Recommendation: Approval of City Manager Del D. Borgsdorf's travel to Houston, Texas, from January 9 – 11, 2003, to participate in the Large Cities Executive Forum, to discuss key issues affecting large cities with populations of 200,000 or more. CEQA: Not a Project. (City Manager's Office)

Approved.

2.4 Approval of an agreement for the conveyance of easements across Water Pollution Control Plant lands.

Recommendation: Adoption of a resolution authorizing the City Manager to:

- (a) Execute an agreement for the conveyance of certain easements across Water Pollution Control Plant (WPCP) lands to Pacific Gas & Electric Company, upon approval of the agreement by the City Council of the City of Santa Clara; and
- (b) Execute documents necessary for the conveyance of a non-exclusive ingress/egress easement and a non-exclusive easement for electrical transmission lines across Water Pollution Control Plant property [Assessor Parcels 015-31-008, 015-31-045 and 015-31-050].

CEQA: Exempt, PP02-11-355. Council District 4. (Environmental Services/Public Works)

Resolution No. 71327 adopted.

2 CONSENT CALENDAR

2.5 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2002-2003 #16, and authorization for the Director of General Services to execute the purchase orders. CEQA: Not a Project. (General Services)

Approved.

2.6 Approval of the re-appointment of members to the Workforce Investment Board of Directors.

Recommendation: Approval of the Mayor's (CLEO) re-appointment of current members to the Workforce Investment Board of Directors for a second two-year term. (Mayor)

Deferred to 12/17/02.

2.7 Approval to vacate the entire Public Service Easement at 1571 Calle de Stuarda.

Recommendation: Adoption of a resolution summarily vacating the entire Public Service Easement lying in the northerly 24 feet of lot 136, Tract 5335, also known as 1571 Calle de Stuarda. CEQA: Not a Project. Council District 9. (Public Works)

Resolution No. 71328 adopted.

2.8 Approval to award a contract for the Fire Station Diesel Exhaust Phase VI – Revised Project.

Recommendation: Report on bids and award of contract for the Fire Station Diesel Exhaust Phase VI - Revised Project to the low bidder, Blocka Construction, Inc., in the amount of \$114,900, and approval of a contingency in the amount of \$11,490. CEQA: Exempt, PP02-07-185. (Public Works)

Approved.

2.9 Approval of an agreement to purchase a portion of a certain property on Lewis Road.

Recommendation: Approval of an agreement to purchase a portion of a certain property owned by Charles Frank Perrotta, a single man, as his sole and separate property, located at 33 Lewis Road, in the amount of \$62,000, and authorizing the Director of Public Works to execute any additional documents required to complete the transaction. CEQA: Exempt, PP02-11-322. Council District 7. (Public Works)

Approved.

2 CONSENT CALENDAR

2.10 Approval to set a public hearing to consider the establishment of Rule 20A Underground Utility District.

Recommendation: Adoption of a resolution to consider the establishment of Rule 20A Underground Utility District bounded by Interstate 880, Route 87, and Coleman Avenue and setting a public hearing on January 21, 2003 at 1:30 p.m. CEQA: Exempt PP02-10-306. Council District 3. (Public Works)

Resolution No. 71329 adopted.

2.11 Approval of various actions related to the 2002-2003 Hazardous Vegetation Commencement Report.

Recommendation: Adoption of a resolution:

- (a) Accepting the 2002-2003 Hazardous Vegetation Commencement Report compiled by the Office of the Santa Clara County Fire Marshal; and
- (b) Declaring that seasonal and recurrent weeds and refuse that are or will be located on those properties identified in the report are a nuisance; and
- (c) Directing the Office of the Santa Clara County Fire Marshal to mail notices of a public hearing before the City Council, on January 14, 2003 at 1:30 p.m. to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Not a Project. (Planning, Building and Code Enforcement)

Resolution No. 71330 adopted.

2.12 Approval of Events at the HP Pavilion at San José.

Recommendation: Approval of a proposed City Event, as provided in the San José Management Agreement, for use of the HP Pavilion on December 18, 2002, for Jingle Ball Concert benefiting Ronald McDonald House Charities. CEQA: Not a Project. (San José Arena Authority)

Approved.

2.13 Approval of two Community Appointments to the Healthy Neighborhood Venture Fund Committee.

Recommendation: Approval of two community appointments to the Healthy Neighborhood Venture Fund Committee. (Mayor)
(Deferred from 12/3/02 – Item 2.9)

Approved.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

None.

3.2 Report of the Rules in Lieu – November 27, 2002

Vice Mayor Shirakawa, Jr., Chair

(a) Redevelopment Agency Items reported out at Redevelopment Agency Meeting.

(b) City Council

(1) Review December 10, 2002 Draft Agenda.

The Committee recommended approval of the December 10, 2002 Agenda with two additions.

(2) Add New Items to December 3, 2002 Agenda.

The Committee recommended approval to the December 3, 2002 Agenda with 4 additions.

(c) City Council Committees

(1) Amendments to Council Committee Agendas

a. Finance and Infrastructure Committee

The Committee recommended approval of the December 11, 2002 Finance and Infrastructure Committee Agenda with two additions.

b. Economic Development and Environment Committee

None Filed

c. Education, Neighborhoods, Youth and Seniors Committee

The Committee recommended approval of the Education, Neighborhoods, Youth and Seniors Committee December 16, 2002 Agenda with one addition.

(d) Meeting Schedules

The Committee recommended approval of the Annual Joint Review of Capital Budgets by City Council, Redevelopment Agency Board and County Board of Supervisors to be held on December 9, 2002 at 3:30 p.m. in the County Board of Supervisors' Chambers.

(e) The Public Record

There was no Public Record Filed.

(f) Boards, Commissions and Committees

There were none.

(g) Council Referrals for Assignment to Appropriate Committee, Administration or Council Appointee **There were none.**

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules in Lieu – November 27, 2002 (Con't) Vice Mayor Shirakawa, Jr., Chair

- (h) Administrative Reviews and Approval
There were none.
- (i) Oral Communications
None were presented.
- (j) Adjournment
The meeting was adjourned at 11:15 a.m.

In-Lieu Rules/Agency Rules Committee of November 27, 2002 was accepted.

3.3 Report of the Finance and Infrastructure Committee Council Member Dando, Chair **None**

3.4 Approval of actions related to cable franchise.

Recommendation: Adoption of a resolution issuing a preliminary assessment that the cable franchise issued to Gill Industries by Ordinance No. 22128 and which AT&T Broadband HC of California, LLC (hereinafter referred to as “AT&T”) purports to lawfully hold should not be renewed, and authorizing the City Manager to establish and commence the required administrative proceedings. (City Manager’s Office)

Council authorized the issuance of the preliminary assessment of denial to be effective December 18, 2002, and authorized the City Manager to negotiate and execute an extension to January 31, 2003 of the 4-month period to act; if a valid extension agreement is established, the effective date of the preliminary assessment of denial will be further extended to the date provided in the extension agreement. Resolution No. 71331 adopted.

3.5 Approval of an agreement for services as the City’s legislative representative in Washington, D.C.

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Manager to negotiate and execute an agreement with Patton Boggs LLP, for legislative representation services in Washington, D.C. for the period January 1, 2003 through December 31, 2003, in an amount not to exceed \$108,000;
- (b) Authorizing the City Manager to execute up to two (2) one-year options to extend the agreement without further Council action other than the appropriation of funds.

CEQA: Not a Project. (City Manager’s Office)

Resolution No. 71332 adopted.

3 STRATEGIC SUPPORT SERVICES

3.6 Approval to allow the City Manager to enter into professional services agreements for the San José Civic Center Project.

Recommendation: Adoption of a resolution allowing the City Manager to enter into professional services agreements for the San José Civic Center Project which exceed \$100,000, and to amend existing professional services agreements where the amended amount of compensation will exceed \$100,000, with the total delegation authority not to exceed \$11,100,000. CEQA: Civic Plaza Redevelopment Plan EIR, Resolution No. 68905, PP98-03-072. Council District 3. SNI: University. (Public Works)

Deferred to 12/17/02.

3.7 Approval of various fiscal actions related to the Redevelopment Capital Projects.

Recommendation: Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital projects Fund (City-side Redevelopment Fund) with a net impact to the fund of \$99,992. CEQA: Exempt, PP02-11-332. Council Districts 2 and 6. (City Manager's Office)
(Deferred from 12/3/02 – Item 3.5)

Ordinance No. 26791 adopted.

Resolution No. 71333 adopted.

3.8 Vietnamese Cultural Heritage Gardens – Operations and Maintenance Agreement.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the Vietnamese Cultural Heritage Foundation for the construction of the Vietnamese Cultural Heritage Gardens to waive certain bond requirements and to authorize the City Manager to accept security, acceptable to the Manager, in lieu of the reduced bond amounts. (Reed)
(Deferred from 12/3/02 – Item 3.8)

Deferred to 1/21/03

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Economic Development & Environment Committee

Council Member Williams, Chair

None.

4.2 Public Hearing on the Historical Property Contract for the Hotel Metropole.

Recommendation: PUBLIC HEARING on the Historical Property Contract for the Hotel Metropole, City Landmark No. HL88-46 and the Sunol Building, City Landmark No. HL02-129 located at the northwest corner of South Market and Post Streets (35 South Market St.) on 0.33 gross acre. (Florin II LTD, William B. Mitchell G.P., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Historic Landmarks Commission recommend approval (5-0-1). (Planning, Building, and Code Enforcement)

MA 02-003 - District 3

(Continued from 10/8/02 – Item 4.3 et al, and 11/26/02 – Item 4.2)

Continued to 12/17/02.

4.3 Public Hearing on the Historical Property Contract for the Clara Louise Lawrence Residence.

Recommendation: PUBLIC HEARING on the Historical Property Contract for the Clara Louise Lawrence Residence, City Landmark No. HL02-142, located at the east side of Randol Avenue, approximately 180 feet southerly of The Alameda (1146 Randol Avenue). (Jim Blair, Eaglecreek Associates II, Owner). CEQA: Exempt. (Planning, Building and Code Enforcement)

MA 02-001 - District 6

Continued to 12/17/02.

4.4 Approval of a loan for permanent financing for the Bel Aire Apartments.

Recommendation: Adoption of a resolution approving a loan of up to \$2,775,000 to FF Development, L.P., or an affiliated entity, for the permanent financing of the 152-unit Bel Aire Apartments to be made affordable to low- and very low-income households, on a 3.94-acre site located at 3201 Loma Verde Drive. CEQA: Exempt, PP02-11-331. Council District 1. SNI: Winchester. (Housing)

Resolution No. 71334 adopted. -- Staff report was amended to indicate that City Council is not required to make “findings” for this project.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.5 Approval of an urgency ordinance amending the Rental Dispute Ordinance.

Recommendation: Approval of an urgency ordinance amending Chapter 17.22 and Chapter 17.23 of the San José Municipal Code, by:

- (a) Changing the references to the “Rental Dispute Program” in these chapters to reflect the program’s new name, the “Rental Rights and Referrals Program”;
- (b) Changing the term “30-day notice” to reflect the increased time periods mandated by recent changes to State Law and the Rental Dispute Ordinance;
- (c) Amending Section 17.23.695 to permit the Director of Housing to make a finding determining the current rental housing market conditions;
- (d) Amending section 17.22.100 to correctly state that the Housing Department is charged with administration of the Rental Rights and Referrals Program; and
- (e) Making grammatical changes to section 17.23.600 in order to appropriately state the type of notices that need to be filed with the City.

CEQA: Not a project (Housing)

(Rules Committee referral 12/4/02)

Ordinance No. 26792 adopted.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the Education, Neighborhoods, Youth, and Seniors Committee Council Member Chavez, Chair None.

5.2 Approval of the Gleason Avenue Mini-Park Master Plan.

Recommendation: Approval of the Gleason Avenue Mini-Park Master Plan. CEQA: Exempt, PP02-06-143. Council District 1. (Parks, Recreation and Neighborhood Services)

Approved.

5.3 Approval of the Hillstone Park Master Plan.

Recommendation: Approval of the Hillstone Park Master Plan. CEQA: Negative Declaration, PP02-10-291. Council District 8. (Parks, Recreation and Neighborhood Services)

Approved.

5 RECREATION & CULTURAL SERVICES

5.4 Approval to negotiate an agreement with Shapell Industries related to the Evergreen Specific Plan.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a real property exchange agreement between the City of San José and Shapell Industries to effect a resolution of various issues related to implementation of the Evergreen Specific Plan. CEQA: Resolution No. 63179. (City Attorney's Office) (Rules Committee referral 12/4/02)

Council approved memorandum of December 10, 2002 by Council Member Cortese recommending approval of the Staff recommendation with the following language amendment added after: "the Evergreen Specific Plan, requiring that all grant deeds contemplated under that agreement be recorded on or before December 17, 2002." Resolution No. 71335 adopted.

6 TRANSPORTATION SERVICES

6.1 Approval of actions related to the Taxicab Advisory Team Report.

Recommendation:

- (a) Acceptance of various actions related to the Taxicab Advisory Team Report:
- (1) Direct the City Manager and San José Redevelopment Agency Director to work with the Taxi Team to identify the funding needed to support the marketing and customer evaluation components of their recommendations.
 - (2) The Taxi Team recommends that a moratorium/cap, as more fully described in Attachment E, be approved and that the Chief of the Police Department be directed to temporarily suspend the issuance of new permits to additional companies not licensed by the City of San José as of November 1, 2002, in accordance with the provisions outlined in Attachment E. The Taxi Team will monitor the moratorium every four (4) months. In reviewing the issue of driver economics, the Taxi Team discussed a proposal for a moratorium on the issuance of permits for new companies as well as additional drivers. In April the participating Taxi Team owners initiated a voluntary cap on drivers.
 - (3) Amend the Taxicab Rate, Fares, and Tariffs Resolution to increase the current per mile rate of \$2.25 per mile (.25 per 1/9 mile) to \$2.50 (.25 per 1/10), amending the flag drop from \$2.00 (including 1/9 mile) to \$2.50 (including 1/10 mile), and increase the wait time calculation from \$.20/36 secs. (\$20 hour) to \$.25/36 secs. (\$25 hour). The Taxi Team will review meter rates every two years, barring any unforeseen economic emergency
- CEQA: Not a Project. (Taxicab Advisory Team)

Not Approved.

(Item Continued on Next Page)

6 TRANSPORTATION SERVICES

6.1 Approval of actions related to the Taxicab Advisory Team Report. (Cont'd)

Recommendation:

- (b) Acceptance of the staff report in response to the San José Taxicab Advisory Team's recommendations, with specific approval of the following recommendations: (Cont'd)
 - (1) Adoption of a resolution amending the Taxicab Rate, Fares, and Tariffs Resolution to increase the current per mile rate of \$2.25 per mile (0.25 per 1/9 mile) to \$2.50 (0.25 per 1/10 mile) and increase the wait time calculation from \$0.20/36 seconds (\$20 hour) to \$0.25/36 seconds (\$25 hour) effective March 2003; and adoption of a resolution amending the Schedule of Fees and Charges to suspend the payment of taxicab stand rental fees for new taxicab stands for one year for taxicab stands installed during 2003.
 - (2) Direct the Transportation City Service Area staff to conduct a consultant study to determine the most appropriate taxicab system for the City and the Airport based upon an evaluation of customer service requirements, industry and driver economics, insurance requirements and procedures, and taxicab service supply and demand.
 - (3) Direct staff from the Transportation City Service Area to internally review the current administrative roles, responsibilities, and methods used by City departments for the taxicab industry to determine the most effective and efficient regulation of the industry and the implementation of any new standards that are appropriately within the City's purview.
 - (4) Authorize staff from the Transportation City Service Area to assist the taxicab industry in transitioning the Taxicab Advisory Team into an independent, privately managed association of taxicab industry standards to improve customer service, and to expand the service base of local industry.

CEQA: Not a Project. (Transportation/Airport/Police)

Resolution Nos. 71336-71337 adopted.

Council approved the memorandum of December 9, 2002, by Mayor Gonzales and Council Members Cortese and Chavez, recommending Council support the recommendations and approach outlined in the Staff memorandum of December 3, 2002, with the following revisions and/or clarifications: (1) The proposed 10-year/400,000 age/mileage restrictions must be a ceiling that is not to be raised, (2) Any additional resources needed as a result of the transfer of appropriate oversight responsibilities to the Department of Transportation will need to compete with other funding

(Item Continued on Next Page)

6.1 TRANSPORTATION SERVICES

6.1 Approval of actions related to the Taxicab Advisory Team Report. (Cont'd)

Recommendation:

- (b) Acceptance of the staff report in response to the San José Taxicab Advisory Team's recommendations, with specific approval of the following recommendations: (Cont'd)

priorities as part of the City's normal budget process, (3) Do not amend the City's taxi ordinance to include the specific response times until there is clarity about how the standard would be monitored and enforced in the short and long term, (4) Staff should develop a set of guidelines on the parameters of the Team's responsibilities and authority for City Council review as part of the consultant study, (5) Any revisions to the Citywide service model must be solely, directly and clearly for the purpose of improving the service model for the Airport, (6) Increase the flag drop rate to \$2.50 in non-Airport areas, but *do not* increase the flag drop rate in the Airport which would remain at \$3.50, and any future fare increases must use a predetermined analytical methodology approved by the Council, (7) Include the study of a moratorium as part of the consultant study of the service models, (8) Do not allow drivers to obtain their own insurance unless it can be done at no risk to the City and without adding an administrative burden on the City, (9) Require the Taxicab team to prioritize the recommendations approved by Council and focus on implementing the top 3-5 priorities in the upcoming year, and (10) Strongly encourage the taxi industry to establish an association within the next twelve months to market the industry, improve customer service and increase driver income.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Water Resources Protection Ordinance representative.

Recommendation: Authorization for a designated Council Member or Council Members to attend a collaborative process meeting of various cities within Santa Clara County and Santa Clara Valley Water District Staff in Cupertino, CA on December 11, 2002 to present the City Council's position on a proposed "Water Resources Protection Ordinance" of the Santa Clara Valley Water District. CEQA: Not a Project. (Rules Committee referral 12/4/02)

Dropped.

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

REDEVELOPMENT AGENCY BOARD CONVENED AT 3:45 P.M. TO CONSIDER ITEM 10.1 AND 10.2 IN A JOINT SESSION

10.1 Acceptance of the Neighborhood Development Center Business Plan.

Recommendation: Acceptance of the Neighborhood Development Center Business Plan.
CEQA: Not a Project. (City Manager's Office/Parks, Recreation and Neighborhood
Services/Redevelopment Agency)

Approved.

10.2 Acceptance of the report on the Council and Redevelopment Agency's agenda procedures.

Recommendation: Approval of the current Council and Redevelopment Board agenda
procedures, including timelines for distributing reports, and direction to staff to
implement the following:

- (a) All staff reports produced by the Administration, City Attorney, or City Clerk
shall be distributed by a single source, the City Clerk's Office by January 2003
(unless the information is confidential/privileged information). (This process
does not include the Redevelopment Agency.)
- (b) Increase the amount of staff reports posted on the website and begin posting
Council Committee agendas and reports on the website by March 2003.

CEQA: Not a Project. (City Manager's Office/City Attorney's Office/City Clerk's
Office/Redevelopment Agency)

**Council approved memorandum of December 10, 2002 by Mayor Gonzales and
Council Members Chavez, Cortese and Dando, recommending approval of the Staff
recommendation dated December 3, 2002, with the following addition: "A standing
item be added to the Rules Committee agenda entitled *Staff Reports Outstanding*
that would allow the Rules Committee to review reports that have not been
distributed for the following week's Council meeting; to include a weekly list
produced by Administration of the staff reports that have not been distributed as of
Tuesday afternoon at 5:00 p.m. for the following week's Council Meeting for review
by the Rules Committee."**

**REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING
ADJOURNED AT 5:10 P.M.**

- Closed Session Report

City Attorney Doyle disclosed the following Closed Session actions of December 10, 2002:

A. Authority to Enter Litigation Case as *Amicus Curiae*:
Case Name: Schifando V. City of Los Angeles

Adverse Party or parties: Schifando

Substance of Litigation: The City agreed to join an *amicus curiae* brief supporting the City of Los Angeles in a Supreme Court review of an appellate finding that an employee must exhaust an employer's internal grievance procedure before filing a lawsuit. The Plaintiff in Schifando has filed a DFEH complaint, but had not challenged an alleged constructive termination through the City's internal procedures. The court held that Plaintiff's action was barred for failing to exhaust the City's administration remedies.

Council Vote: Ayes: Nora Campos, Cindy Chavez, David D. Cortese, Pat Dando, John Diquisto, Linda J. LeZotte, Chuck Reed, George Shirakawa, Jr., Forrest Williams, Ken Yeager; Ron Gonzales.

Noes: None.

Disqualified: None.

Absent: None.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9402	E/s of Morrill Ave., 840 feet s/o Cropley Ave.	4	Yoshito Ouchita	5 lots	SFDR	Approve
9435	N/s of Hillsdale Ave., opposite Vista Park Dr.	7	KB Home South Bay Inc.	11 lots	SFAR	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9290	NE/c of McLaughlin Ave. & Taper Ln.	7	Tomas Cornejo	6 units	SFD
9460	E/s of N. Capitol Ave., 100 feet n/o Autumnvale Ave.	4	Capitol Park Townhomes, LLC	17 units	SFA
9464	E/s of N. White Rd, 670 feet s/o McKee Rd	5	N. White Road Townhomes, LLC	12 units	SFA

- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.

- Adjournment

The Council of the City of San José adjourned at 5:10 p.m.

The Council of the City of San José adjourned at 5:10 p.m. in memory of Erin Christine Hamilton, a community leader who was extensively involved in campaigning for causes to which she was dedicated, such as cancer research; her interests included baseball, traveling and political causes.

THE FOLLOWING ITEM WAS HEARD AT THE JOINT REDEVELOPMENT/CITY COUNCIL MEETING OF DECEMBER 10, 2002.

The Council of the City of San José convened at 5:20 p.m. to hear Item 7.1 in a Joint Session with the Redevelopment Agency.

7.1 Approval of a Disposition and Development Agreement with CIM California Urban Real Estate Fund, L.P., for the development of mixed-use infill projects in the Downtown core.

Recommendation: Public Hearing and adoption of resolutions by the City Council and Agency Board:

- (a) Accepting the summary costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the mixed-use development of three downtown sites commonly known as, Block 3, Fountain Alley Parking Lot, and 2nd and Santa Clara, finding that the sale of the three sites will assist in the elimination of blight, will provide housing for low and moderate income persons, is consistent with the Implementation Plans and that the consideration for the sites is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale; and,
- (b) Approving a Disposition and Development Agreement (DDA) with CIM (California Urban Real Estate Fund, L.P., a Delaware Limited Partnership for the development of mixed-use infill projects in the Downtown core and authorizing the Executive Director to execute the same and close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements; and,
- (c) Authorizing the Executive Director to negotiate and execute related agreements identified in the DDA, including but not limited to: Covenants, Consideration Agreement, Affordability Restrictions, Reciprocal Easement Agreements, Parking Agreements, Option Agreements, Disbursing Agreements, Memorandum of DDA, Public Art Agreements and Site Clean-up Plans, and CC&Rs and, at the First Implementation Event, to convey the Site and to execute and deliver the Grant Deed in the form attached to the DDA and, at the Second Implementation Event, to accept conveyance by Grant Deed in the form attached to the DDA of the public parking parcels; and,
- (d) Approving a Second Amendment to the existing Exclusive Negotiations Agreement with CIM that will extend the time period for negotiations by six months; and,
- (e) Approving the addition of a new project line, Parking Plus, for \$9,300,000 to the Adopted FY 2002-2003 Capital Budget in the Merged Redevelopment Area; and,
- (f) Approving the additional funds of \$36.3 million to the Adopted FY 2002-2003 Capital Budget, Downtown Mixed-Use Project line in the Merged Redevelopment Area; and,

THE FOLLOWING ITEM WAS HEARD AT THE JOINT REDEVELOPMENT/CITY COUNCIL MEETING OF DECEMBER 10, 2002.

7.1 (Cont'd)

Recommendation: Public Hearing and adoption of resolutions by the City Council and Agency Board: (Cont'd)

- (g) Approving the add of \$50,100,000 in revenue funds from bond proceeds to the FY 2002-2003 Adopted Budget; and,
- (h) Approving the additional funds of \$4,500,000 to the Adopted FY 2002-2003 Capital Budget, Mixed Use Project Area Acquisitions and Remediation line in the Merged Redevelopment Area; and,
- (i) Amending the FY 2002-2003 Agency appropriations resolution.
CEQA: Resolution No. 71039.1 {**MERGED**}

The City Council/Agency Board approved the memorandum of December 10, 2002 by Council Members Chavez, Cortese and LeZotte, recommending approval of the portions of the Staff report dated December 10, 2002, and giving additional direction to the Administration, as contained therein, and as revised by the memorandum's authors during the 12/10/02 Council/Board meeting:

- (1) **Under 1st bullet:** "Approve Items a, b, c, f, and h, as outlined in the Staff report" was revised to include approval of Item d of the Staff report;
- (2) **Under 3rd bullet, last item:** Revised to read only: "Formal acknowledge of the Community Benefits Assessment Plan as an enforceable agreement."

Resolution No. 71338 adopted. Noes: Dando, Diquisto, Reed, Shirakawa, Jr.; Gonzales. Agency resolution adopted. Noes: Dando, Diquisto, Reed, Shirakawa, Jr.; Gonzales.

The Council of the City of San José adjourned at 7:42 p.m.